IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO: 5972 of 2005

Between:

Mohd. Azeem Pasha S/o Mohd. Yousuf
R/o 19-2-34/2, Jahanuma, Hyderabad

.... PETITIONER

AND

The Regional Passport Officer, Passport Office, Hyderabad having Office at Secunderabad

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue the Writ or orders more particularly writ of Mandamus declaring the action of the respondent not considering the representation of petitioner for correction of date of birth in his passport is arbitrary, illegal null and void which is against the spirit of constitution of India and consequently direct the Respondent to correct the date of birth as 19/09/1975 instead of 10/06/1971 in petitioner passport No. E1575341 issued on 9/7/2002 and pass such other order or orders as this Hon'ble Court deem fit and proper in the circumstances of the case and inthe interest of justice.

Counsel for the Petitioner: MR.NAZIR AHMED KHAN

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY, S.C. (ASST.SOLICITOR GEN.)

The Court at the stage of admission made the following:

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ORDER:

Heard the learned counsel for the petitioner and the learned standing counsel for the Central Government appearing for the respondent-Passport Authority-Passport Authority.

It is the case of the petitioner that his actual date of birth is 19-09-1975, but in the passport issued to him by the respondent-Passport Authority on 09.07.2002, his date of birth was wrongly mentioned as 10-06-1971, and that though he requested the respondent-Passport Authority to alter his date of birth in the Passport and issue fresh passport, the respondent-Passport Authority refused to consider his request on the ground that he has no power to make correction of date of birth in the passport and directed the petitioner to bring an order from the Court regarding correction of his date of birth. Aggrieved by the said action respondent, this writ petition is filed.

It is required to be noticed that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect:

> " (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the

same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

As on today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, the respondent ought to have considered the request of the petitioner for fresh passport in the light of the above instructions in Circular dated 18-04-2001.

Accordingly, the Writ Petition is disposed of with a direction to the respondent to consider the request of the petitioner afresh for issuance of fresh passport with correct date of birth and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of his case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

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23.03.2005

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To

1. The Regional Passport Officer, Passport Office, Hyderabad
2. 2 CD copies